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**UNITED STATES DISTRICT COURT**

**DISTRICT OF OREGON**

**UNITED STATES OF AMERICA**

**3:20-CR-00223-IM**

v.

**JACOB MICHAEL GAINES**

**Defendant.**

**MOTION TO REQUIRE DEFENSE  
NOTICE OF WRITTEN INTENTION TO  
INTRODUCE EXPERT EVIDENCE OF  
MENTAL CONDITION**

The United States, though its undersigned counsel, herein moves this Court to require defendant to provide written notice of his intention to introduce at trial any evidence relating to a mental disease or defect. Support follows.

Federal Rule of Criminal Procedure 12.2 states in part:

(b) Notice of Expert Evidence of a Mental Condition. If a defendant intends to introduce expert evidence relating to a mental disease or defect or any other mental condition of the defendant bearing on ... (1) the issue of guilt..., the defendant must – within the time provided for filing a pretrial motion or at any later time the court sets – notify an attorney for the government in writing of this intention and file a copy of the notice with the clerk.

Advisory Committee Notes to this Rule state that the objective is to prevent trial delay and give the government time to prepare to meet the issue, which will usually require reliance upon expert testimony. *See* Advisory Committee Notes to Fed. R. Crim. P. 12.2; *United States v. Winn*, 577 F.2d 86 (9th Cir. 1978).

In letters transmitting government discovery in the present case, the government has previously requested written notice from defendant under Fed. R. Crim. P. 12.2, but no notice has been received. The government is thus unaware of any plans by defendant to rely on mental-based evidence at trial, but requests the Court to grant this motion and order defendant to provide the government and the clerk's office written notice if he intends to present mental-based evidence at trial.

Dated: April 9, 2021

Respectfully submitted,

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*/S/ Christopher Cardani*  
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